

REMARKS

This submission accompanies Applicants' RCE and is intended as a full and complete response to the final Office Action mailed March 19, 2008. In the Office Action, the Examiner notes that claims 1-15 are pending and rejected. In view of the following discussion, Applicants submit that none of the claims now pending in the application are anticipated under the provisions of 35 U.S.C. §102. Therefore, Applicants believe that all of the claims are now in allowable form.

It is to be understood that Applicants do not acquiesce to the Examiner's characterizations of the art of record or to Applicants' subject matter recited in the pending claims. Further, Applicants do not acquiesce to the Examiner's statements as to the applicability of the prior art of record to the pending claims by filing the instant response including amendments.

35 U.S.C. §102 Rejection of Claims 1 – 15

The Examiner has rejected claims 1 – 15 under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 7,260,823 to Schlack et al. (hereinafter "Schlack"). Applicants respectfully traverse the rejection.

Claims 1 – 15

Applicants cancelled claims 1 – 15. Applicants introduce new claims, namely claims 16 – 36.

Anticipation requires the presence in a single prior art disclosure of each and every element of the claimed invention, arranged as in the claim. Schlack does not teach or suggest each and every element of the claimed invention, as arranged in independent claim 16.

Specifically, the Schlack reference fails to teach or suggest at least:

"parsing dynamically, in accordance with a set of stored processing rules, a stream of command signals **to determine which command signals are associated with a user activated control unit and which control signals are associated with a personal video recorder operation** and to generate, **using command signals associated with a user activated control unit**, information representative of the viewer's viewing behavior, wherein the parsing comprises interpreting at least one signal from the stream of command signals based on the viewer profile,"

as recited in independent claim 16 (emphasis added).

Schlack discloses a method for profiling one or more viewers by monitoring their interactivity with the set-top receiver, and then, generating one or more profiles for each viewer (col. 6, lines 10-16). A profiler identifies different viewing sessions for each viewer (col. 6, lines 52-53) based on viewing activity data and creates session profiles for each session (col. 6, lines 56-57). Schlack describes that sessions may be defined by the cycling power of the set-top box, periods of inactivity, channel change, and other viewer activity (col. 6, lines 60-64). However, Schlack does not distinguish whether such activities are being caused by a viewer or actually a personal video recorder and how that might affect interpretation of such activities. In fact, Schlack does not even mention that a viewing event may be caused by the personal video recorder. Rather, Schlack merely suggests that Schlack's method may be incorporated in various devices having set-top box functions, including the personal video recorder.

Therefore, Schlack fails to teach or suggest all the elements recited in independent claim 16, and thus, claim 16 is allowable under 35 U.S.C. §102(b). Independent claim 33 recites relevant limitations, and thus, is allowable at least for the same reasons. Because all of the dependent claims depending from the independent claims include all the limitations of the respective independent claim from which they ultimately depend, each such dependent claim is also allowable over Schlack under 35 U.S.C. §102.

Accordingly, Applicants respectfully request that the Examiner to withdraw the rejection.

CONCLUSION

Thus, Applicants submits that none of the claims, presently in the application, are anticipated under the provisions of 35 U.S.C. §102. Accordingly, both reconsideration of this application and its swift passage to issue are earnestly solicited.

If, however, the Examiner believes that there are any unresolved issues requiring adverse final action in any of the claims now pending in the application, it is requested that the Examiner telephone Eamon J. Wall, at (732) 530-9404, so that appropriate arrangements can be made for resolving such issues as expeditiously as possible.

Respectfully submitted,

Dated: _____

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E J Wall

Eamon J. Wall
Registration No. 39,414
Attorney for Applicant(s)

PATTERSON & SHERIDAN, LLP
595 Shrewsbury Avenue, Suite 100
Shrewsbury, New Jersey 07702
Telephone: 732-530-9404
Facsimile: 732-530-9808